



Richard R. Wireman appeals the trial court's revocation of his probation. Wireman raises one issue, which we restate as whether the trial court abused its discretion in sentencing Wireman as a result of his probation revocation. We affirm.

The relevant facts follow. In December 2004, the State charged Wireman with operating a vehicle after his license was forfeited for life as a class C felony, possession of methamphetamine as a class D felony, possession of paraphernalia as a class A misdemeanor, and being an habitual substance offender. Wireman pled guilty to operating a vehicle after his license was forfeited for life as a class C felony, possession of methamphetamine as a class D felony, and being an habitual substance offender. On March 3, 2006, the trial court sentenced Wireman to an aggregate sentence of sixteen years with four years executed and twelve years suspended to probation. The trial court ordered Wireman to serve the executed portion of his sentence through community corrections with placement in the Cocaine-Methamphetamine Program ("CMP").

On October 2, 2006, Wireman was found to be in possession of a controlled substance and, as a sanction, was placed at Home with Hope, given seven days of road crew, and instructed to begin paying his arrears on fees owed. However, Wireman failed to make payments on his arrears and failed to initiate performance of his road crew days. As a result, on November 28, 2006, the State filed a petition to expel Wireman from CMP. On February 2, 2007, the trial court ordered Wireman to serve his executed sentence at the Indiana Department of Correction.

On April 17, 2007, the trial court entered an agreed order modifying Wireman's sentence. Under the modification, Wireman was released from jail and ordered to serve

the remainder of his sentence at Home with Hope, and he was to be released from Home with Hope no earlier than August 13, 2007, and no later than November 26, 2007, at the discretion of the Home with Hope staff. On July 27, 2007, Home with Hope notified the trial court that Wireman had violated the conditions of their program by consuming alcohol, developing an inappropriate relationship with a female client, and leaving Home with Hope without permission.

The State filed a petition to revoke Wireman's probation. At a hearing on the petition, Wireman testified and admitted to consuming alcohol, talking with a female client on the "women's side," and leaving Home with Hope for nine days. Transcript at 3-4. The trial court found that Wireman had violated his probation and took the matter under advisement pending a psychological evaluation of Wireman. The trial court then held another hearing and ordered Wireman to serve his twelve-year suspended sentence in the Indiana Department of Correction.

The issue is whether the trial court abused its discretion in sentencing Wireman as a result of his probation revocation. We review a trial court's sentencing decision in probation revocation proceedings for an abuse of discretion. Goonen v. State, 705 N.E.2d 209, 212 (Ind. Ct. App. 1999). An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. Smith v. State, 730 N.E.2d 705, 708 (Ind. 2000), reh'g denied.

Probation is a criminal sanction wherein a convicted defendant specifically agrees to accept conditions upon his behavior in lieu of imprisonment. Brabandt v. State, 797 N.E.2d 855, 860 (Ind. Ct. App. 2003). These restrictions are designed to ensure that the

probation serves as a period of genuine rehabilitation and that the public is not harmed by a probationer living within the community. Id. A defendant is not entitled to serve a sentence in a probation program; rather, such placement is a “matter of grace” and a “conditional liberty that is a favor, not a right.” Strowmatt v. State, 779 N.E.2d 971, 976 (Ind. Ct. App. 2002). Ind. Code § 35-38-2-3(g) governs the revocation of probation and provides:

If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may:

- (1) continue the person on probation, with or without modifying or enlarging the conditions;
- (2) extend the person’s probationary period for not more than one (1) year beyond the original probationary period; or
- (3) order execution of all or part of the sentence that was suspended at the time of initial sentencing.

“[S]o long as the proper procedures have been followed in conducting a probation revocation hearing pursuant to Indiana Code Section 35-38-2-3, the trial court may order execution of a suspended sentence upon a finding of a violation by a preponderance of the evidence.” Goonen, 705 N.E.2d at 212.

Wireman argues that the trial court should have ordered him to enter a residential treatment program for polysubstance dependence rather than execute his entire suspended sentence. According to Wireman, the psychological evaluation recommended residential treatment, his violations were relatively minor, he had made progress at Home with Hope, and he wants treatment for his drug and alcohol addictions. The trial court noted that it had given Wireman multiple opportunities to avoid jail by taking advantage of

community corrections and that Wireman had repeatedly failed to abide by the terms of the programs. Forty-one-year-old Wireman has an extensive criminal history, both habitual offender and habitual substance offender adjudications, and multiple probation violations. Under these circumstances, we cannot say that the trial court abused its discretion by revoking Wireman's entire suspended sentence. See, e.g., Abernathy v. State, 852 N.E.2d 1016, 1022 (Ind. Ct. App. 2006) (noting that "ultimately it is the trial court's discretion as to what sanction to impose under the statute" and affirming the trial court's order that the defendant serve his entire three-year suspended sentence).

For the foregoing reasons, we affirm the trial court's revocation of Wireman's probation.

Affirmed.

BAKER, C. J. and MATHIAS, J. concur